

Message Text

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ORIGIN L-03

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FM SECSTATE WASHDC
TO USINT HAVANA

C O N F I D E N T I A L STATE 158759

E.O. 11652: GDS

TAGS: CARR, CASC, CPAS, CVIS, SHUM, CU

SUBJECT: CONSULAR ACCESS TO DUAL NATIONAL PRISONERS

REF: HAVANA 1261

1. PARA 4 REFTTEL REPORTED GOC HAS DENIED USINT REQUESTS FOR CONSULAR ACCESS TO AMERICAN PRISONERS OF DUAL U. S.-CUBAN NATIONALITY ON THE GROUND THAT THESE PERSONS ARE CUBAN NATIONALS AND THEY CONSEQUENTLY HAVE NO RIGHTS RESPECTING CONSULAR PROTECTION BY FOREIGN CONSULAR OFFICERS. POST REQUESTED DEPARTMENT'S ADVICE CONCERNING DEFENSIBILITY OF THIS POSITION UNDER INTERNATIONAL LAW AND PRACTICE. IN DEPARTMENT'S VIEW USG HAS NO INTERNATIONALLY RECOGNIZED LEGAL RIGHT TO INSIST UPON CONSULAR ACCESS TO PERSONS WHO FOR ONE REASON OR ANOTHER POSSESS NATIONALITY OF USG AND OF
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THE RECEIVING COUNTRY. THE PROBLEM AT HAND IS BOTH WIDE-SPREAD AND CONSIDERABLY VEXING AND HAS BEEN DEALT WITH BY THE USG IN OTHER CONTEXTS BY ENTERING INTO AGREEMENTS DEALING SPECIFICALLY WITH CONSULAR PROTECTION FOR PERSONS POSSESSING DUAL NATIONALITY. TYPICALLY SUCH AGREEMENTS HAVE BEEN INCLUDED IN OR APPENDED TO BILATERAL CONSULAR TREATIES. THEY PROVIDED GENERALLY FOR CONSULAR ACCESS FOR PERSONS WHO

HAVE ENTERED THE RECEIVING STATE BASED UPON SENDING STATE
TRAVEL DOCUMENTATION AND RECEIVING STATE VISAS. THESE

AGREEMENTS CALL FOR DEPARTURE OF DUAL NATIONALS ON THE
BASIS OF THIS DOCUMENTATION WITHOUT THE NECESSITY OF
HAVING TO ACQUIRE ADDITIONAL RECEIVING STATE DOCUMENTATION
SUCH AS EXIT VISAS. AGREEMENTS OF THIS NATURE HAVE BEEN
INCLUDED IN BILATERAL CONVENTIONS WITH BULGARIA, HUNGARY,
POLAND AND CZECHOSLOVAKIA (NOT YET IN FORCE) AND ARE BEING
CONSIDERED FOR ROMANIA AND YUGOSLAVIA. DEPARTMENT WILL
POUCH COPIES OF AGREEMENTS WITH POLAND AND BULGARIA.

2. NOTWITHSTANDING ABSENCE OF FIRM INTERNATIONAL LEGAL
BASIS IT IS U. S. POLICY TO SEEK TO PROTECT THE WELFARE OF
U. S. CITIZENS ABROAD. POST ACCORDINGLY SHOULD CONTINUE TO
SEEK ACCESS TO AMERICAN CITIZEN PRISONERS INVOLVED. VANCE

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Draft Date: 22 jun 1978
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Decaption Note:
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Disposition Case Number: n/a
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